IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 15760 of 1996

Between:

G.John Joseph

... PETITIONER

AND

1. The Chief of Army Staff, Army Head Quarters, New Delhi – 11.
2. The Brigadier, 20, Mounten Artillery Brigade, C/o.99, A.P.O., Bgeenaguri, West Bengal.
3. The Commanding Officer, 11 Field Regiment, 20, Mounten Artillery Brigade, C/o.99, A.P.O., Beenaguri, West Bengal.
4. Assistant Record Officer, Topkhana Abnilekh, Artillery Records, Nasik Road Camp, Madhya Pradesh.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction of the like nature, by declaring the action of the respondents in dismissing the petitioner from service without conducting proper enquiry as arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently to direct the respondents to reinstate the petitioner into service and award all consequential benefits, and to pass such other order or orders as this Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr.B.NAGESWARA RAO

Counsel for the Respondents: Mr.A.RAJASEKHAR REDDY, CENTRAL GOVT.

STANDING COUNSEL

The Court made the following:

Order:

The petitioner contends that he worked in Indian Army from May 1981. He was discharged from service on 23-4-1994 as a punishment for his unauthorized absence for a period of three months. He preferred an appeal to the concerned authority and the same is pending even till this date. He further contends that the certificates of his educational qualifications were retained by the respondents and a discharge certificate was not issued to him, therefore, it is becoming difficult for him to secure any employment as ex-serviceman. He therefore seeks a direction against the respondents for return of the educational certificates and to issue a discharge certificate.

In this writ petition, the petitioner sought for a declaration that the action of the respondents in dismissing him from service without conducting proper enquiry is highly arbitrary and offends Articles 14 and 16 of the Constitution of India. Since the appeal said to be preferred by the petitioner is pending before the concerned authority, it is not appropriate to pass orders on merits regarding the punishment imposed on the petitioner by the disciplinary authority. The writ petition is premature and is not maintainable at this stage.

Regarding the grievance of the petitioner that his educational certificates were retained by the 4th respondent and that he was not issued any discharge certificate, I am inclined to issue necessary direction to the 4th respondent.

In the result, the writ petition is dismissed as not maintainable. However, the fourth respondent is directed to return the educational certificates, if any retained by him, of the petitioner and to issue a certificate of discharge, if it is a fact that the petitioner was discharged from service at the earliest.

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(Dr.G. Yethirajulu, J)

14th September 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Chief of Army Staff, Army Head Quarters, New Delhi – 11.
2. The Brigadier, 20, Mounten Artillery Brigade, C/o.99, A.P.O., Bgeenaguri, West Bengal.
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